ness by proving his contract of employment, which provided that the employer might reimburse himself for all damages caused by the negligence of the conductor by deducting the sum from his wages. The evidence was excluded. *Held*, that this is reversible error. *Henry* v. *Tacoma Ry. & Power Co.*, 219 Fed. 874 (C. C. A., 9th Circ.).

Although the old rule disqualifying a witness pecuniarily interested in the result of a suit has been almost everywhere abolished, nevertheless it is proper to discredit the testimony of a witness by showing interest. *Luckhurst* v. *Schroeder*, 149 N. W. 1009, 1012 (Mich.); see 2 WIGMORE, EVIDENCE, § 969. Therefore it has been held that the fact that a witness is employed by one of the parties to the suit may be considered by the jury as bearing on his credibility. *Donley* v. *Dougherty*, 174 Ill. 582, 51 N. E. 714. *Cf. Marquette, H. & O. R. Co.* v. *Kirkwood*, 45 Mich. 51, 7 N. W. 209. In addition, the servant's common-law liability for his own negligence may be pointed out. See *Hamilton* v. *Chicago, M. & St. P. Ry. Co.*, 103 Ia. 325, 331, 72 N. W. 536, 538. The contract in the principal case, since it gives the employer the right to deduct from the conductor's wages, in addition to his common-law right to reimbursement, increases the employee's pecuniary interest in the outcome of the suit. It correspondingly intensifies the temptation to lie, and should be admissible to discredit the witness. Accordingly, the result of the principal case is questionable only in that it reverses the trial judge on a point resting so largely within his discretion. *Miller* v. *Smith*, 112 Mass. 470, 476; see 2 WIGMORE, EVIDENCE, § 944.

WITNESSES — PRIVILEGED COMMUNICATIONS — HUSBAND'S LETTERS TO WIFE. — In a prosecution for bigamy, the state offered letters from the husband to the alleged first wife to establish the fact of that marriage. These letters had fallen into the hands of a third person, and were then secured by the prosecution. *Held*, that the letters are admissible. *McNeill* v. *State*, 173 S. W. 826 (Ark.)

The privilege not to have private communications between husband and wife disclosed may be waived, since the evidence itself is not fundamentally inadmissible. See *Perry* v. *Randall*, 83 Ind. 143, 146; *Stickney* v. *Stickney*, 131 U. S. 227, 237. *Contra*, *Goodrum* v. *State*, 60 Ga. 509. But the privilege belongs not to the addressee alone, but to the communicating party, or possibly to both. *Derham* v. *Derham*, 125 Mich. 109, 83 N. W. 1005. A voluntary delivery, therefore, by the addressee should not suffice to waive the privilege. *Mahner* v. *Linck*, 70 Mo. App. 380; *Wilkerson* v. *State*, 91 Ga. 729, 17 S. E. 990. But where the letter is originally sent with knowledge that it will be read by a third person there is clearly no privilege. *De Leon* v. *Territory*, 9 Ariz. 161, 80 Pac. 348. Again, a conversation overheard is similarly unprivileged, for although there is no intention to publish the communication, there is a publication by the act of the person entitled to the privilege. *Commonwealth* v. *Everson*, 29 Ky. L. Rep. 760, 96 S. W. 460; *Commonwealth* v. *Griffin*, 110 Mass. 181. Where a third party obtains the letter without the consent of the other spouse there is clearly no publication, but the weight of authority, in accord with the principal case, makes no distinction and holds the privilege equally inoperative. *Hammons* v. *State*, 73 Ark. 495, 84 S. W. 718; *State* v. *Hoyt*, 47 Conn. 518; *State* v. *Buffington*, 20 Kan. 599. *Contra*, *Scott* v. *Commonwealth*, 94 Ky. 511, 23 S. W. 219; *Bowman* v. *Patrick*, 32 Fed. 368. A further ground of the decision is that the defendant, by denying the validity of the first marriage, is precluded from asserting the privilege of a spouse. Since the burden of establishing a privilege falls upon the party attempting to assert it, it is immaterial that it is equally inconsistent for the prosecution, while asserting the validity of the first marriage, to object to the assertion of the privilege. *Contra*, *State* v. *Ulrich*, 110 Mo. 350, 19 S. W. 656.